IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6106 OF 2004

Shri Eknath Ganpat Pagare ... Petitioner

V/s.

Dy.General Manager
Mahindra & Mahindra Ltd. ... Respondent

Mr.Jagdish Reddy h/f Ms.Suhasini Mutalik for Petitioner

Mr.C.U. Singh with Ms.S.P. Upadhyay i/b M/s.Haresh Mehta & Co. for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 10, 2004**

P.C.:

. By this Petition , the award of the Tribunal rejecting the Reference has been challenged by the Petitioner. The Petitioner was chargesheeted on 28.12.1992 for remaining absent on 63 days between November 1990 to October 1992. The enquiry officer found that the Petitioner was absent unauthorisedly for 50 days and that the management has not accepted the medical certificate provided by the Petitioner for the remaining 13 days. The Enquiry Offier had found him guilty of the misconduct of unauthorised absence in accordance with clause 24 (F) of the Standing Orders applicable.

2. The Labour Court while deciding the reference has held that the Enquiry Officer had conducted the enquiry in a fair and proper manner. The Labour Court has held that the findings of the Enquiry Officer were justified and that the action of the employer in terminating the services by way of dismissal was also justified. The Labour Court has considered the past service record of the Petitioner and found that time and again, he had remained unauthorisedly absent. Moreover, the Labour Court has considered the fact that although the Petitioner was given several opportunities to improve himself by the employer by imposing minor punishments despite various instances of unauthorised and habitual absence, the Petitioner did not avail of them.

3. In these circumstances, the Labour Court in my view, has rightly upheld the dismissal and there is no need for me to interfere with the findings in the award. Petition, therefore, rejected.